

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Joel S. Greenberger

Title: PROTECTION FROM IONIZING
IRRADIATION OR
CHEMOTHERAPEUTIC DRUG
DAMAGE BY *IN VIVO* GENE
THERAPY



TECH CENTER 1600/2900

JUL 29 2002

RECEIVED

Appl. No.: 08/907,041

Filing Date: 08/06/1997

Examiner: S. Chen

Art Unit: 1632

TERMINAL DISCLAIMER

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Your Petitioner, University of Pittsburgh, having its principal place of business at Shadyside Medical Center, G-40, 5200 Center Avenue, Pittsburgh, Pennsylvania 15232-1300 (hereinafter represents that it is the owner of the entire right, title, and interest in and to U.S. Patent Application Serial No. 08/907,041, filed August 6, 1997, which is a continuation of U.S. Patent Application No. 08/136,079, filed October 15, 1993, now U.S. Patent No. 5,599,712, by virtue of an Assignment filed and recorded on March 16, 1994, on Reel/Frame 6883/0407, in the United States Patent and Trademark Office, a copy of which is attached hereto as APPENDIX A, U.S. Patent Application Serial No. 08/484,836. Further, your Petitioner represents that it is also the owner by virtue of an Assignment filed and recorded on September 25, 1995, on Reel/Frame 7697/0730, in the United States Patent and Trademark Office, a copy of which is attached hereto as APPENDIX B.

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Your Petitioner, University of Pittsburgh, hereby disclaims the terminal part of the term of any patent granted on the above identified patent application which would extend beyond the full statutory term, as shortened by any terminal disclaimer, of U.S. Patent No. 5,599,712, and hereby agrees that any patent so granted on the above identified patent application shall be enforceable only for and during such period that the legal title to U.S. Patent No. 5,599,712 shall be the same as the legal title to any patent granted on the above identified patent application, this agreement to run with any patent granted on the above identified patent application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim any terminal part of any patent granted on the above identified patent application, prior to the full statutory term of U.S. Patent No. 5,599,712 as defined in 35 U.S.C. §§154-156 and 173, in the event that U.S. Patent No. 5,599,712 expires for failure to pay a maintenance fee, is held unenforceable or is found invalid in a final judgment by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321(a), has all claims canceled by a reexamination certificate or as a result of an interference proceeding, or is otherwise not deemed to provide the rights conveyed by 35 USC §154, prior to the full statutory term of U.S. Patent No. 5,599,712 as defined in 35 USC §§154-156 and 173, except for the separation of legal title stated above. Further, Petitioner does not disclaim any terminal part of a patent granted on the above identified patent application that would extend beyond the present termination of U.S. Patent No. 5,599,712, in the event that such present term is extended by virtue of compliance with the conditions for term extension of any present or future patent term extension provisions of the patent law, including but not limited to 35 U.S.C. §§155, 155A or 156, and without waiving Petitioner's right to extend the term of a patent granted on the above identified patent application to the extent provided by law.

The undersigned, being the Attorney of Record for the above identified patent application, and duly authorized to act on behalf of Petitioner, certifies that he has reviewed the Assignments attached as APPENDICES A and B, and to the best of his knowledge and belief, legal title to the above identified patent application and U.S. Patent No. 5,599,712 rests with Petitioner, University of Pittsburgh. The undersigned declares that all statements made herein of their own knowledge are true and that all

statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing therefrom.

Applicant hereby petitions the Commissioner under 37 C.F.R. §1.20(d) for a terminal disclaimer in the above-identified application.

The terminal disclaimer fee is \$55.00. A check for this amount is enclosed herewith.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Respectfully submitted,

Date

24 July 2002

By

S. A. Bent

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